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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission on Human Rights resolution 1993/20

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Introduction

1. At its forty-ninth session, the Commission on Human Rights decided, in resolution 1993/20, to appoint, for a three-year period, a special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, and to request him to report thereon to the Commission on an annual basis, beginning at its fiftieth session.

2. In the same resolution, the Commission expressed its deep concern at the reported serious incidents attributable to racism, racial discrimination and xenophobia taking place in many parts of the world. It also recommended that the General Assembly should launch a third decade to combat racism and racial discrimination, to begin in 1993.

3. The Commission also emphasized the obligation of the international community to take urgent measures to eradicate apartheid completely and to combat all other forms of racism, racial discrimination, xenophobia and related intolerance, including those practised against vulnerable groups. It also confirmed the importance, in the struggle against racism and racial discrimination of a complementarity of economic, social, educational and information measures at the national level, including legislative, administrative and penal measures and of measures taken at the international level.

4. The Commission recognized the importance of activities aimed at directly assisting vulnerable groups to strengthen their participation in national, economic, social and political life and appealed to all Governments to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Commission urged all Governments to undertake immediate measures and to develop strong policies effectively to combat racism and eliminate discrimination.

5. Finally, the Commission requested the Secretary-General to provide the special rapporteur with all the necessary assistance, in particular the staff and resources required to perform his or her functions, especially in carrying out missions and following them up.

6. Following consultations with the officers elected for the forty-ninth session, on 30 March 1993, the Chairman of the Commission on Human Rights appointed Mr. Robert Dossou (Benin) as Special Rapporteur. As some months later Mr. Dossou was appointed Minister for Foreign Affairs of his country, he resigned from the post of Special Rapporteur. Consequently, on 7 December 1993, the Chairman of the Commission appointed another Special Rapporteur in the person of Mr. Maurice Glélé-Ahanhanzo, also from Benin.

7. In the meantime, on 28 July 1993, by decision 1993/258, the Economic and Social Council approved the Commission's decision to appoint a special rapporteur as well as the request to the Secretary-General to provide the special rapporteur with all the necessary assistance and resources required to perform his or her functions. On account of his late appointment, the present Special Rapporteur was able to set about his task only at the beginning of January 1994.

8. Section I of this report attempts to determine the mandate vested in the Special Rapporteur by the Commission. Section II describes the methods of work he wishes to adopt in performing his functions. In section III of the report, the Special Rapporteur addresses the question of resources. Finally, section IV sets out the Special Rapporteur's preliminary conclusions and recommendations.

I. CONSIDERATIONS ON THE MANDATE OF THE SPECIAL RAPPORTEUR

Legal framework

9. Article 2 of the Universal Declaration of Human Rights, dated 10 December 1948, states that everyone is entitled to all the rights and freedoms set forth in the Declaration "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". The same wording appears in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly on 16 December 1966, and in article 2, paragraph 1, of the International Covenant on Civil and Political Rights, adopted by the General Assembly on 16 December 1966.

10. However, as regards legal codification, the basic international legal instrument that specifically addresses the issue of racial discrimination is the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965.

11. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was adopted by the General Assembly in resolution 47/135 dated 18 December 1992. It represents a significant addition to article 27 of the International Covenant on Civil and Political Rights, which deals with the protection of minorities.

12. Mention should also be made of another international instrument, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the General Assembly on 18 December 1990.

Main aims of the mandate

13. The Special Rapporteur's mandate, which includes "racism, racial discrimination, xenophobia and related intolerance" encompasses a broad range of situations. In resolution 1993/20, the Commission nevertheless placed the emphasis on recent manifestation of racism and xenophobia in the developed countries, and in particular on the situation of migrant workers and other vulnerable groups. In this connection, mention should also be made of resolution 1993/30, in which the Commission recommended to all thematic rapporteurs to pay particular attention, within the framework of their mandates, to the situation of indigenous peoples.

14. Given the scope of his task, the Special Rapporteur will follow certain guidelines in order to discharge his mandate satisfactorily.

An increasingly disturbing situation

15. The Special Rapporteur endorses the observation by the Commission, contained in resolution 1993/20, that despite the efforts thus far of the international community, the principal objectives of the two decades to combat racism and racial discrimination have not been attained and that millions of human beings continue to be the victims of the varied forms of racism, racial discrimination and apartheid.

Institutionalized and indirect forms of racial discrimination

16. He also notes that the Commission is conscious of the fundamental difference between: (a) on the one hand, racism and racial discrimination as an institutionalized governmental policy, such as apartheid, or resulting from official doctrines of racial superiority or exclusivity; and (b) on the other hand, other manifestations of racism, racial discrimination, xenophobia and related intolerance taking place in segments of many societies.

17. The Special Rapporteur associates himself with the Commission in emphasizing that the international community is currently facing and experiencing two forms of racial discrimination: first of all, the institutionalized form, such as apartheid and official doctrines of racial superiority or exclusivity; secondly, indirect forms, which affect certain sectors of society or particular groups, who suffer from racial discrimination and xenophobia. Such discrimination is disguised or camouflaged by a proclamation of theoretical equality for all communities and social sectors of different geographical and cultural origin.

The developed countries, ideal breeding grounds for new forms of racial discrimination

18. Like the Commission, the Special Rapporteur notes with concern that in many parts of the world, despite all efforts, racism, racial discrimination, xenophobia and related intolerance and acts of violence resulting therefrom persist, among them manifestations occurring particularly in developed countries, whence the need to give priority to examining the question in those countries.

Minorities, the victims of racial discrimination

19. The Special Rapporteur also shares the concern of the Commission when it asserts that in many parts of the world, ethnic, cultural, linguistic, religious and other minorities are suffering from discrimination and discriminatory treatment.

Migrant workers

20. Reiterating the concern of the Commission, the Special Rapporteur is aware of the growing magnitude of the phenomenon of racism, racial discrimination, xenophobia and related intolerance in segments of many societies, and their consequences for migrant workers.

21. The Special Rapporteur also notes that the Commission is conscious that the scourges of racism and racial discrimination are continually assuming new forms, requiring a periodic re-examination of the method used to combat them. In this respect, there are those who consider that subregional or regional integration is a factor that tends to exclude others.

Economic resources, the cause of the intensification of racism and racial discrimination

22. The Special Rapporteur fully endorses the in-depth analysis made by the Commission, which has led it to the conviction that racism and racial discrimination, in whatever form, are intensified by, inter alia, conflicts over economic resources, in developed as well as in developing countries, and can best be defeated by a combination of economic, legislative and educational measures.

The indivisibility and interrelatedness of rights and fundamental freedoms

23. The Special Rapporteur unreservedly supports the Commission's reassertion that all human rights and fundamental freedoms, economic, social and cultural, as well as civil and political, are indivisible and interrelated.

The proclamation of the Third Decade to Combat Racism and Racial Discrimination

24. The Special Rapporteur endorses the recommendation made by the Commission in resolution 1993/20 that the General Assembly should launch a third decade to combat racism and racial discrimination. He also welcomes the decision taken by the General Assembly, at its forty-eighth session, in resolution 48/91, to proclaim the Third Decade and to adopt a Programme of Action.

The obligations of the international community

25. In keeping with the wish expressed by the Commission in resolution 1993/20, the Special Rapporteur emphasizes the obligation of the international community to take urgent measures to eradicate apartheid completely and to combat all other forms of racism, racial discrimination, xenophobia and related intolerance, including those practised against vulnerable groups.

26. In addition, the Special Rapporteur confirms, together with the Commission, the importance, in the struggle against racism and racial discrimination, of a complementarity of economic, social, educational and information measures at the national level, including legislative, administrative and penal measures and of measures taken at the international level.

27. Continuing his scrutiny of the resolution, the Special Rapporteur, like the Commission, recognizes the important role that can be played in this regard by the Sub-Commission on Prevention of Discrimination and Protection of

Minorities, as well as the need for more effective coordination between the Centre for Human Rights and organizations of the United Nations system which undertake operational activities for development.

28. The Special Rapporteur also welcomes the efforts of the Committee on the Elimination of Racial Discrimination to fulfil its mandate, and recognizes, with the Commission, the importance of activities aimed at directly assisting vulnerable groups to strengthen their participation in national, economic social and political life.

The appeal to Governments

29. Lastly, the Special Rapporteur unreservedly endorses the appeal to all Governments to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

30. He also reiterates the urgent call to all Governments to undertake immediate measures and to develop strong policies effectively to combat racism and eliminate discrimination.

Other resolutions relevant to the mandate

31. In conclusion, the Special Rapporteur also wishes to recall that his future activities fall within the framework of Commission on Human Rights resolutions 1991/11, dated 22 February 1991 and 1992/8 of 21 February 1992. In the second resolution, the Commission reaffirmed its firm determination and its commitment to eradicate totally and unconditionally racism in all its forms, racial discrimination and apartheid. The Special Rapporteur also notes that the Commission's consideration of these issues is founded on Sub-Commission on Prevention of Discrimination and Protection of Minorities resolutions 1990/1 and 1990/2 of 20 August 1992, as well as on General Assembly resolution 45/105 of 14 December 1990, in which the General Assembly declared once again that all forms of racism and racial discrimination, particularly in their institutionalized form, such as apartheid, or resulting from official doctrines of racial superiority or exclusivity, are among the most serious violations of human rights in the contemporary world. The Special Rapporteur also takes note of the substance of Commission resolution 1992/41 dated 28 February 1992 on human rights and thematic procedures.

II. METHODS OF WORK OF THE SPECIAL RAPPORTEUR

32. The new mandate outlined above contains few indications as to the nature, framework and scope of the Special Rapporteur's activities, the appropriate methodology and the sources of information on which he may draw. The mandate is nevertheless broad and important for the following reasons.

33. First of all, it is necessary to draw attention to the complexity and subtlety of the main theme, namely, contemporary forms of racism, racial discrimination, xenophobia and intolerance. At the very outset there is a need to redefine or refocus, by further refining, the concepts or notions of racism, of racial discrimination, of xenophobia and of intolerance, without overshadowing contemporary debates on human rights concepts.

34. Subsequently, in considering these issues, it is necessary to foster a comprehensive, broad and multidimensional approach. Thus defined, the problems as a whole, as well as the methodology, should encompass the world's populations and different regions as a whole as specific units or sectors. If special mention is made of the developed countries, it is no less important for consideration of the question to extend to the other continents or cultural regions.

35. A dual methodological approach could be adopted, comprising two aspects: a factual aspect and a theoretical and conceptual aspect, which would comprise the legal dimension.

36. The mandate established by resolution 1993/20 is consistent with the special thematic procedures; the methodology to be applied would be more or less similar to that followed by other thematic rapporteurs. The Special Rapporteur has had an opportunity to examine the methods of work adopted by the other rapporteurs and has also taken note of the Joint Declaration of the Independent Experts Responsible for the Special Procedures for the Protection of Human Rights (Vienna, June 1993), which summarizes the scope and objectives of special procedures. Consequently, the Special Rapporteur is of the view that it is desirable to examine thoroughly all aspects of relevance to the methods of work adopted by the special rapporteurs within the framework of their respective mandates.

37. Accordingly, it is desirable to study the cases, and thus the facts or phenomena that have been recorded through the appropriate channels, such as surveys addressed to Governments, NGOs, sister institutions of the United Nations System, or as a result of research carried out by the Centre (by means of field missions, through scientific publications or through reliable information collected by the media.)

38. The procedure for considering communications will be more or less similar to that used in other thematic procedures. The basic method of work for these procedures consists in the Special Rapporteur transmitting information or case summaries concerning alleged violations to the State concerned, in order to induce the national authority to undertake the necessary investigations of all the incidents or individual cases reported. The Rapporteur will also ask to be kept informed of the outcome of the investigations carried out.

39. Consideration of communications concerning human rights violations will enable contemporary forms of racial discrimination to be detected and identified accurately. The analysis of these cases of alleged violations and government replies will help towards a better grasp of manifestations of racial discrimination and thus help to identify and determine indicators of its contemporary forms.

40. The second aspect of the procedure will involve a theoretical and conceptual study of the new forms of discrimination. Reference should also be made to the definitions set out in International Conventions, particularly article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination. An intellectual effort therefore needs to be made to refine the concepts of discrimination, intolerance, xenophobia and their modern forms which are often very subtle and difficult to grasp.

41. For example, one may wonder why some immigrants in some European countries are forbidden to wear specific signs or symbols. Does the ban on wearing the chador in schools have a racial, religious or cultural origin or motivation? The Rapporteur and the Commission will certainly be able to put to the best possible account the scholarly publications and UNESCO's most recent scientific studies on race and culture. It may be asked whether at least one dimension - the right to be different - of the doctrine of the affirmation of cultural identities universally recognized by the World Conference on Cultural Policies in Mexico in 1982 has not been skilfully exploited, thus strengthening apartheid. It may further be asked whether it is not currently serving the theories of ethnic cleansing and national preference, the skinhead movement and religious fundamentalism?

42. This latter aspect also involves the collection and analysis of legal and administrative provisions enacted by Governments, including legal decisions with reference to human rights and the provisions of the Constitution. Generally speaking, the Constitution prohibits all forms of discrimination, and even makes provision for bodies to protect human rights in the form of a constitutional court or council or through an ombudsman. However, some political parties circumvent the prohibition by advocating racist ideologies or discrimination. The Constitution itself, by means of skilfully-worded provisions, may also generate discrimination, for example, in its ethnic or religious aspect. A questionnaire will therefore be sent to Governments, non-governmental organizations, and specialized agencies (see annex). The Special Rapporteur hopes that the members of the Commission may possibly be able to add to the substance of the questionnaire in the course of the discussions.

43. The Special Rapporteur considers, pursuant to resolution 1993/20, that he should undertake missions in the field, either on his own initiative, alone or together with one or more rapporteurs dealing with topics similar to his own mandate, or at the request of Governments. To begin with, he envisages three ordinary missions annually, as well as emergency missions.

44. In view of the number of special procedures in existence, such as enforced or involuntary disappearances, torture, religious intolerance, etc, it would be appropriate to set up machinery for regular consultation and dialogue between special rapporteurs. The Special Rapporteur welcomes the projected meeting which the special rapporteurs requested in the Vienna Joint Declaration. Priority should also be given to dynamic and efficient machinery for intersectoral cooperation between the various branches and sectors of the Centre for Human Rights.

45. Similarly, systematic cooperation in the form of regular consultations and joint studies should be arranged with the other specialized agencies of the United Nations system such as UNICEF, ILO and UNESCO (cf. the Convention on the Rights of the Child) and the Commission on Human Rights. Pursuant to resolution 1993/20, cooperation should also be developed with the international development agencies in a combined quest for effective solutions to the economic and social aspects of the contemporary forms of racial discrimination.

III. RESOURCES

46. In order to carry this new and broad mandate through to a successful conclusion, the Special Rapporteur needs assistance in the form of staff and resources, as the resolution stresses. Following an initial assessment of his needs, the Special Rapporteur considers that he would require at the United Nations Office at Geneva a person at the professional level who is a specialist or at least familiar with and interested in human rights problems and having experience of them, also bilingual, with excellent French and good English; as well as a bilingual secretary. These requirements, and the resources needed to carry out his missions in the field, were very clearly indicated in the financial implications prepared for the programme budget when the Commission adopted the above-mentioned resolution and when it was subsequently approved by the Economic and Social Council.

47. The secretariat assisting the Special Rapporteur in implementing resolution 1993/20 will have the following task: centralization of data and their analysis; study of communications; regular contacts with the permanent missions, the specialized agencies of the United Nations system, NGOs, individuals, and all other sources of information; preparation of seminars and missions.

48. Aware of the importance and the stakes, and indeed the challenge of the new mandate entrusted to him, the Special Rapporteur hopes, for the success of his mission, that he may depend on dynamic cooperation from the Centre for Human Rights and active collaboration from Governments, specialized agencies of the United Nations system, NGOs, and regional intergovernmental organizations.

49. Given the time constraints and the initial difficulties encountered with regard to staff assistance, the Special Rapporteur has not been able to consider and submit the pertinent individual communications. However, he intends in the near future to send a circular letter to all States, describing his new mandate and requesting their active cooperation.

IV. PRELIMINARY CONCLUSIONS AND RECOMMENDATIONS

50. In addition to the activities which the Special Rapporteur has outlined in the section dealing with methods of work, he suggests that scientific research should be done on the nature and scope of the problems covered by his mandate, particularly through such projects as:

An interdisciplinary seminar on the problems of the theoretical aspects and specific manifestations of contemporary forms of racial discrimination, together with a study of measures already taken or to be taken;

Workshops (one per continent) during the first two years of his mandate; and

A conference for the purpose of consolidation during the third year of his mandate. These scientific encounters will be organized in close collaboration with the specialized agencies concerned with human rights, the NGOs and experts working in the field.

51. The Special Rapporteur is convinced of the importance of education and its far-reaching consequences and suggests that measures should be studied to prevent actions and behaviour giving rise to discrimination - prevention being better than cure - and that a system of human rights teaching should be established in all States in close cooperation with specialized agencies such as UNESCO and with Governments. There would be a study of how to make this system mandatory and effective. Could cultural and social racism not be gradually checked by theoretical teaching as well as practical methods (plays and cultural events) which would enable a country's different ethnic or cultural groups to get to know, learn, understand and appreciate each other's culture, and thus facilitate cultural intermingling? Today, in the "finite world" or the "planetary village" we inhabit, ethnic, religious and cultural minorities could, thanks to the large scale impact of the media, achieve a better mutual understanding in cultural terms and accept each other to a greater extent. Greater tolerance would thus grow progressively between peoples, migrants, immigrant workers and their families and aboriginal or indigenous peoples. In short, the Special Rapporteur attaches great importance to the prevention of manifestations of racism in any form whatsoever by governmental, legislative, administrative, economic and social and above all educational measures.

52. Lastly, the Special Rapporteur would suggest that some thought might be given, at the conclusion of the Third Decade to Combat Racism and Racial Discrimination to erecting a memorial in honour of the victims of racial discrimination. It could be set up on the Place des Nations within the grounds of the United Nations at Geneva to promote an awareness of the evils of racial discrimination and to draw attention to the continuing and sustained activities of the United Nations against all forms of racism and on behalf of human rights. If this idea were to find favour, the activity would be financed by voluntary contributions. Our world does not lack men of goodwill, humanists or benefactors.

Annex

DRAFT QUESTIONNAIRE TO GOVERNMENTS*

1. Is your country experiencing or has it experienced a syndrome of contemporary forms of racial discrimination or of discrimination against ethnic, religious or cultural minorities?

2. Is your country experiencing or has it experienced serious incidents involving manifestations of racial discrimination? In what form(s)?

3. What provisions concerning human rights and means of protecting them does your country's Constitution or Fundamental Law embody?

4. Do you have problems relating to:

- ethnic minorities
- religious minorities
- cultural minorities

and/or indigenous populations or populations of mixed descent?

5. What measures have been taken at the socio-economic and political level to assure access to education, employment and the civil service structure to communities of different geographical and cultural origins?

6. What is the situation of migrants and immigrant workers and their families, particularly from the legislative and administrative viewpoint?

(a) How many immigrant workers are there in your country? What are their religions or beliefs and their cultural practices?

(b) Relations with the national population:

- Have there been any surveys?
- Have there been any studies and/or publications on the question of migrants and immigrant workers and their families, either by the Government or scholarly institutions, national institutions or non-governmental human rights organizations?

(c) What is the role of the media vis-à-vis the problem of immigrants, refugees and manifestations of xenophobia or intolerance?

7. Is there an official service to take up and handle incidents involving racial discrimination, xenophobia, intolerance and violence? What resources does it have to hand? How does it act? What results have been achieved?

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* A similar questionnaire will also be sent to intergovernmental and non-governmental organizations.

8. Can you provide statistical data and, if possible, instances of case-law in this regard?

9. What measures are under consideration or have been taken by your Government to bring these phenomena under control:

- administrative and/or legal measures?

- economic and social measures?

- cultural measures: is education open and accessible to everyone? Are the cultures of minorities and immigrant workers taught and included in a national curriculum at school and university level, by means of activities and theatre productions, festivals and the like in order to make for a better cultural mutual understanding?

10. What measures are under consideration or have been taken by your Government to prevent demonstrations of xenophobia, intolerance and violence and the exclusion of foreigners or minority or vulnerable groups?

11. Are there political movements, groups or parties that advocate a racist or xenophobic ideology, preach national preference or incite to ethnic or religious cleansing? Conversely, do groups exist which promote and encourage in their programme a policy of welcome and of integration with cultural pluralism and respect for the dignity of others?

12. What measures and actions do you envisage in order to prevent and put an end to the new forms of racial discrimination, xenophobia, violence and intolerance?

13. What do you think of the new mandate and how do you anticipate contributing to its satisfactory implementation?

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